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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,237	02/19/2004	Patrick Rooney Conarro	CID-0401	5192
25007	7590	09/09/2005	EXAMINER	
LAW OFFICE OF DALE B. HALLING, LLC 655 SOUTHPOINTE COURT, SUITE 100 COLORADO SPRINGS, CO 80906			CASTELLANO, STEPHEN J	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/782,237

Applicant(s)

CONARRO ET AL.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/19/04;7/5/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the thickness of the compressible rib being less than the thickness of the rest of the housing as stated in claim 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim 20 is objected to because the thickness of the compressible rib is not shown in the drawings.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 10, 13 and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Pace et al. (Pace).

Pace discloses a combination meal serving tray, comprising a pear shaped housing having legs (receptacles 13, 14), a food well (one of compartments 15) and a cup well (receptacle 12) acting as a third leg, the cup well has structural ribs 19 and compressible ribs 17, the food well has an arch as that portion which is concave at the interior bottom and adjacent to both a straight wall and the convex curve associated with either of receptacles 13 and 14, the convex curve is a cutout at an end of the arch.

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Re claim 10, the first and second food wells are compartments 15, the arm impression is opening formed beneath compartments 15 between the cup well and the legs.

Re claim 13, the tapered configuration of the cup well and receptacles 13 and 14 allows nesting.

Re claim 15, openings are provided between the pair of legs both above the bottom of compartment 15 as well as below the bottom of compartments 15

Re claim 18, horizontal nesting is provided by the ability to situate like trays horizontally adjacent and touching each other.

The tray is pear shaped insofar as a pear can be of any of a variety of shapes. Asian pears are substantially spherical in shape. Bartlett pears are elongated vertically in shape. The tray of the invention is elongated horizontally.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Young, Sr. (Young).

Young discloses a serving tray with a pair of legs (one leg 44, the other leg is one of the cup wells (20, 21, 22).

Claims 1-6, 10, 13 and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Panta Chica.

Panta Chica discloses a combination meal serving tray, comprising a pear shaped housing having legs (at the front end as shown in Fig. 2), a food well (the two forwardmost compartments as shown in fig. 2) and a cup well (the rearwardmost compartment as shown in fig. 2) acting as a third leg, the cup well has structural ribs and compressible ribs, the food well has an arch as the

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bottom of the forwardmost compartment as that portion which contacts the supporting surface and the cutout is the outwardly concave curve at an end of the arch.

Re claim 13, the compartments are tapered and nesting is a capability.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 10, 13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pace, Young or Panta Chica in view of Cinque.

This rejection is made if it should be deemed that Pace, Young or Panta Chica are not pear-shaped.

Cinque teaches a pear-shaped housing having a circular food well and a smaller circular cup well. It would have been obvious to modify the configurations of the housings of Pace, Young and Panta Chica to be pear-shaped and to consist of a circular food well and a circular cup well in order to provide the minimal necessary compartments for eating a meal and to save the weight and decrease the size of the meal tray to conserve space, make the tray from less plastic saving material and shipping costs and to make the tray easier to handle due to less bulkiness of the tray.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pace, Young, Panta Chica or [Pace, Young or Panta Chica in view of Cinque] in view of Chantaca, Wright and Howell et al. (Howell).

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Pace, Young, Panta Chica and the combination disclose the invention except for the lid. Chantaca, Wright and Howell, all teach a lid. It would have been obvious to add a lid in order to protect the food well compartments from contamination to preserve the freshness, taste and hygiene of the food.

Claims 11, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pace, Panta Chica or [Pace and Panta Chica in view of Cinque] in view of Chantaca, Wright and Howell et al. (Howell).

Pace, Panta Chica and the combination disclose the invention except for the lid. Chantaca, Wright and Howell, all teach a lid. It would have been obvious to add a lid in order to protect the food well compartments from contamination to preserve the freshness, taste and hygiene of the food.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pace, Young, Panta Chica and [Pace, Young and Panta Chica in view of Cinque] in view of de Chollet, Williamson and MacGregor, Jr. (MacGregor).

Pace, Young, Panta Chica and the combination disclose the invention except for the compressible rib thickness. De Chollet teaches compressible ribs 30a, 30b that have a thickness less than the rest of the housing. Williamson teaches compressible ribs of insulative fabric 22 which are of a thickness less than the thickness of the housing that has layers 22 and 25. MacGregor teaches compressible ribs 15 having a thickness less than the rest of the housing. It would have been obvious to modify the thickness of the ribs to be less than the thickness of the rest of the housing in order to flex before the wall of the housing flexes to provide contact which will space the housing from the beverage container or the item held within the cup well.

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Applicant's arguments filed July 5, 2005 have been fully considered but they are not persuasive.

The drawing objection has not been overcome by the amendment to the drawings and specification.

The claims state "substantially pear shaped." An Asian pear has a substantially spherical shape and a Bartlett pear has a substantially spherical shape with a protruding, rounded end. Every pear is shaped differently than a sphere with flattened portions, protruding portions and indentations. Insofar as the drawings of the present invention don't depict anything close to a sphere, the pear shaped limitation is interpreted to mean the profile of a pear. The profile of a pear is a substantially circular or arcuate shape that may have flattened portions, protruding portions or indentations. A plan view profile of (1) Pace discloses flattened portions as well as arcuate portions; (2) Panta Chica discloses arcuate portions; and (3) Young discloses arcuate and flattened portions.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535.

The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 571-272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc